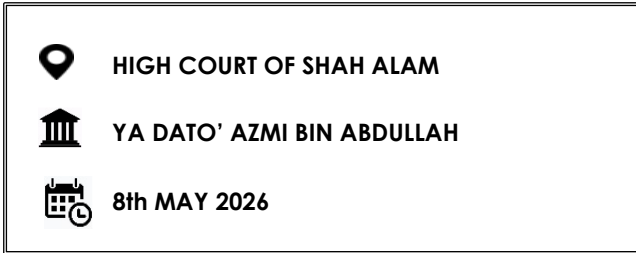


**SECTIONS 2, 3A, 4, 36, 36CA, 38A(1), 39 &
ITEM 22(1)(a) FIRST SCHEDULE
STAMP ACT 1949**



**1) BINAISTRA LAND SDN BHD
2) BINAISTRA ABLEBUILD SDN BHD**

V.

**PEMUNGUT DUTI SETEM
RAYUAN NO. BA-24NCvC-420-02 /2025**

On 07.11.2024, the Collector of Stamp Duty (“the Collector”) conducted an audit visit at Binastra Land Sdn Bhd’s business premises and found a Letter of Award (“LOA”) dated 08.02.2022 that was not stamped. The

Collector then issued a Security Assessment Notice (Remission) dated 31.12.2024 on the LOA, imposing stamp duty of RM250,000.00 together with a penalty of RM50,000.00 under section 47A of the Stamp Act 1949 (“SA 1949”). Binastra Land Sdn Bhd and Binastra Ablebuild Sdn Bhd (“the Duty Payers”) were dissatisfied with the duty imposed and appealed against it under paragraph 39(1)(a) of the SA 1949. According to the Duty Payers the LOA should be assessed as an agreement under Item 4 First Schedule of the SA 1949 with a duty of only RM10.00. The issues before the High Court were whether the Collector had statutory power/authority to issue the Assessment dated 31.12.2024 arising from the audit discovery of unstamped instrument and whether the stamp duty imposed on the LOA dated 08.02.2022 under Item 22(1)(a) of the First Schedule of the SA 1949 was correct.

On the first issue, the Duty Payers argued that the Collector lacked jurisdiction to issue the Assessment dated 31.12.2024 because the express power to raise an assessment or additional assessment was only introduced through section 36CA of the SA 1949, which came into force on 1.1.2026. As for the second issue, the Duty Payers contended that the LOA does not fall within Item 22(1)(a) First Schedule of the SA 1949 as it is not a security for sums payable at “stated periods”, since it contains no instalment schedule, periodic payment mechanism, or fixed payment intervals, and the contract sum is expressly stated to be provisional and subject to later adjustment. As no total amount ultimately payable can be ascertained at the time of execution, the LOA should instead be classified under Item 4 First Schedule of the SA 1949, attracting a fixed duty of RM10.00 and, at most, an incidental penalty under section 47A of the SA 1949.

In response, the Collector submits that the SA 1949 expressly authorises the Collector to assess, determine, and recover stamp duty on chargeable instruments irrespective of voluntary submission, with Section 3A of the SA 1949 empowering the Collector to compel production of instruments and documents. The Duty Payers are also under an obligation (“shall”) to submit an instrument under section 36 of the SA 1949 for adjudication. Therefore, it is the Duty Payers’ duty to submit the executed LOA dated 08.02.2022. On the second issue, the Collector further contended that the LOA constitutes a “transaction” under subsection 4(3) of the SA 1949 and was the principal instrument governing payment obligation from the Second Appellant to the First Appellant and the LOA operates as security for sums payable at stated and definite periods with an ascertainable total sum. Thus, the LOA falls within Item 22(1)(a) First Schedule of SA 1949 attracting an ad valorem duty. Consequently, the Collector maintains that the penalty of RM50,000.00 imposed under paragraph 47A(1)(c) of the SA 1949, calculated at 20% of the RM250,000.00 stamp duty due to the Duty Payers’ failure to submit the Letter of Award for stamping, was lawfully and properly imposed.

On 08.05.2026, the High Court dismissed the Duty Payers’ appeal with costs.

Editorial Note

- *The Duty Payers have the right to file an appeal against the decision of the High Court within 30 days from the date of the decision.*